



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,370	05/26/2000	David Friedman	BUFFALO 201	7613
10037	7590	04/24/2006	EXAMINER	
MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/579,370

Applicant(s)

FRIEDMAN ET AL.

Examiner

Shick C. Horn

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,6,8,9,11-14,16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,8,9,11-14,16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Upon reconsideration, the finality of previous office action has been withdrawn.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

The label of claim 25 as being "currently amended" have been corrected by examiners amendment as being "new" since the amendment of 3/7/06 including new claim 25 have not been entered.

The amendment of 4/6/06 have been entered; however the application is not in condition for allowance because the user placing a call request for a voice connection using the browser as recited in Petty et al. (see Figs. 3a and 3b, Fig. 6, and col. 10 lines 8-65) reads on the analysis of a shopping cart requesting establishment of the voice communication session as in claim 6.

***Drawings***

Art Unit: 2616

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the public switched telephone network and the external program must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

Art Unit: 2616

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

5. Claims 1-2, 11, 14, and 25 are objected to because of the following informalities: In claim 1 lines 2, 5, and claim 11 line 2 the words "a user" seems to refer back to the "user" recited in claim 6 line 2. If this is true, it is suggested changing "a user" to ---the user---. Likewise, in claim 1 line 3, which recite "a request," "a voice communication," line 6 which recite "a set of user preferences," line 10, which recite

Art Unit: 2616

"a communications channel," and line 11, which recite "a public switched telephone network" seem to refer back to the "request," "voice communication," "set of user preferences," "communications channel," and "public switched telephone network" recited in claim 6. If this is true, it is suggested changing "a request," "a voice communication," "a set of user preferences," "a communications channel," and "a public switched telephone network" to ---the request---, ---the voice communication---, ---the set of user preferences---, ---the communications channel---, and ---the public switched telephone network---, respectively. In claim 11 line 2, which recite "a browser," lines 5 which recite "an application program," lines 6-7 which recite "an application programming interface," seem to refer back to the "browser," "application program," and "application programming interface" recited in claim 6. If this is true, it is suggested changing "a browser," "an application program," and "an application programming interface" to ---the browser---, ---the application program---, and ---the application programming interface---, respectively. In claim 14 lines 1-2, which recite "a set of user preferences" and claim 25 line 3 which recite "a voice communication" seem to refer back to the "set of user preferences" and "voice communication" recited in claim 6. If this it true, it is suggested changing

Art Unit: 2616

"a set of user preferences" and "a voice communication" to ---  
the set of user preferences--- and ---the voice communication---  
, respectively.

6. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

Claims 1, 2, and 4 are objected to because they do not depend from a preceding independent claim.

***Claim Rejections - 35 USC § 112***

7. Claims 4 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4 and 25 line 4, which recite "the state" lacks clear antecedent basis because no state have been previously

Art Unit: 2616

recited in the claims and therefore the limitation is not clearly understood.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 2, 4, 6, 8, 9, 11-14, 16, and 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Petty et al. (6,337,858).

Regarding claim 6:

Petty et al. disclose the Internet telephony system comprising a client system having an Internet browser (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection, the hyperlink, and the client), and a server hosting a Web site (see col. 7 line 65 to col. 8 line 18 which recite the web



Art Unit: 2616

server), wherein a message is transmitted from the server to the client system based on the user's status with respect to Web site, seeking to establish a voice communication session and wherein the user status with respect to the web site is derived from an automated analysis of a shopping cart (see col. 10 lines 8-65 which recite the web server sending a preference form to the client requesting the information when the client requested a VoIP call connection; whereby the service requested by the client corresponds to the shopping cart).

Regarding claim 1:

Petty et al. disclose the internet telephony system comprising a browser display having a hyperlink (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection and the hyperlink), said hyperlink communicating with a server (see col. 7 line 65 to col. 8 line 18 which recite the web server), retrieving a user's preferences (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user), and initiating a voice communication with the user, through a communications channel defined by the user preferences (see col. 10 lines 8-65 which recite the connection medium preference). Further, Petty et al. disclose the telephony server (see col. 7 line 65 to col. 8 line 18 which recite voice communication using

Art Unit: 2616

a web server), comprising an application program communicating directly with telephony hardware to implement telephony system control (see abstract which recite the use of computer controlled telephony hardware for voice communication and col. 6 line 55 to col. 7 line 16 which recite the software and hardware for originating voice calls from a data network clearly reads on the application program), and an application programming interface, wherein said application program includes as one of its is application programming interface functions a call to an external program (see col. 7 lines 54-61 which recite the web interface for ISP and subscriber administration functions clearly reads on an application programming interface including call to external program).

Regarding claim 11:

Petty et al. disclose the Internet telephone system (see col. 6 lines 10-29 which recite the Internet including telephone network), comprising a browser display having a hyperlink (see Fig. 5 and col. 9 lines 7-33 which recite the screen display for browsing the WWW including the request for a voice connection and the hyperlink), said hyperlink communicating with a server (see col. 7 line 65 to col. 8 line 18 which recite the web server), retrieving a user-related data (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user),

Art Unit: 2616

and initiating a voice communication with the user (see col. 10 lines 8-65 which recite the web server sending a preference form to the client requesting the information when the client requested a VoIP call connection).

Regarding claim 2:

Petty et al. disclose wherein said digital data communications channel carries data between a user terminal and a web server, the web server communicating with a distinct server for establishing the user voice communication channel involving a PSTN (see abstract and col. 5 line 54 to col. 6 line 9 which recite the voice communications may be voice over Internet or PSTN voice connections).

Regarding claims 8, 14:

Petty et al. disclose wherein the user's preferences are retrieved in a cookie (see col. 8 line 45 to col. 9 line 6 which recite the preference file for the user including a cookie).

Regarding claims 4, 9, 12, 13, 16, 22-25:

Petty et al. disclose wherein the user interactively communicates through the digital data communications channel to establish the state, and the server establishing the voice communication being further responsive to an economic interest of a party distinct from the user; wherein the application program interfaces with a monetary account system; a

Art Unit: 2616

micropayment system; and wherein the application program supports an application service provider payment model (see col. 6 line 55 to col. 7 line which recite using the billing server for tracking the PSTN usage and log distance charges and preparing call detail records for the ISP which uses the call detail record to prepare bills for its service subscribers).

Regarding claim 21:

Petty et al. disclose a communications link to a Web server, for coordinating telephony functions and Web server functions (see col. 6 lines 44-54 which recite the Web server for telephony functions).

Regarding claim 19:

Petty et al. disclose wherein the application program may spawn a plurality of instances of the external program simultaneously (see Fig. 9A which shows the spawning of a plurality of external program simultaneously).

Regarding claim 20:

Petty et al. disclose wherein the application program has a component running on a telephony server and a component running on each telephony client (see Fig. 2 and col. 6 line 55 to col. 7 line 17 which shows the software running in the server and client).

Art Unit: 2616

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petty et al. (6,337,858) in view of Smith, III (6,772,139).

Regarding claim 18:

For claim 18, Petty et al. disclose the telephony system and server described in paragraph 7 of this office action. For claims 18-20, Petty et al. disclose all the subject matter of the claimed invention with the exception of wherein the application program is a dynamic link library adapted to run under Microsoft Windows as in claim 18.

Smith, III from the same or similar fields of endeavor teach that it is known to provide wherein the application program is a dynamic link library adapted to run under Microsoft Windows (see col. 9 lines 13-28). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide wherein the application program is a dynamic link library adapted to run under Microsoft Windows as taught by Smith, III in the telephony system and server of Petty et al. The application program being a dynamic link library adapted to run under Microsoft Windows can be implemented by providing the Microsoft Windows operating system software in the browser software of Petty et al. The motivation for providing the application program being a dynamic link library adapted to run under Microsoft Windows as taught by Smith III in the system and device of Petty et al. being that it provides more efficiency for the system since the system is

Art Unit: 2616

using the well know Microsoft Windows operating system for operation efficiency of the system.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Loghmani et al. disclose a telephony-data application interface apparatus and method for multi-modal access to data applications.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

SH

*Seema S. Rao*  
SEEMA S. RAO 4/19/06  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800